

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

MATTHEW C. KETRON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.: 3:12-CV-516
	)	(VARLAN/SHIRLEY)
LAW OFFICES OF BARRY J. GAMMONS,	)	
	)	
Defendant.	)	

**MEMORANDUM OPINION AND ORDER**

This civil action is before the Court on the Defendant Law Offices of Barry J. Gammons' Motion for Summary Judgment [Doc. 6], which was filed on November 14, 2012. Defendant filed the motion for summary judgment subsequent to filing an answer to the complaint [Doc. 5], although it filed the documents on the same day. On December 6, 2012, in response to the motion for summary judgment, plaintiff filed an amended complaint [Doc. 9]. Plaintiff also subsequently filed a response to the motion for summary judgment [Doc. 10] and defendant replied [Doc. 11].

Although plaintiff did not seek leave of Court to file the amended complaint, leave was not required because Rule 15(a) of the Federal Rules of Civil Procedure affords a plaintiff the opportunity to amend its pleading as a matter of course if the amendment is filed "21 days after service of a responsive pleading or 21 days after a service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed. R. Civ. P. 15(a)(1)(B). In light

of the additional three days afforded by Rule 6(d), plaintiff's amended complaint was timely.

Upon review of the amended complaint, as well as the response to the motion for summary judgment and defendant's reply, and because the filing of a new complaint supersedes the previous complaint and controls the case, *see Parry v. Mohawk Motors of Mich., Inc.*, 236 F.3d 299, 306–07 (6th Cir. 2000), the Court hereby **DENIES** the motion for summary judgment as moot with leave to refile.

IT IS SO ORDERED.

s/ Thomas A. Varlan  
CHIEF UNITED STATES DISTRICT JUDGE